

# THE MICHIGAN INDIGENT DEFENSE COMMISSION ACT

In October of 2011, Governor Rick Snyder created the Indigent Defense Advisory Commission to investigate long-standing problems in Michigan's public defense system and recommend reforms. The Commission met with experts from around Michigan and the country and announced its findings and recommendations in June, 2012. The Michigan Indigent Defense Commission Act (House Bill 5804) was introduced on Aug. 15, 2012.

## What did the Governor's Commission find?

**FINDING:** It is the State of Michigan's responsibility to ensure adequate defense representation for its residents who are unable to afford an attorney.

**FINDING:** The State has delegated this constitutional responsibility to the counties and this county-based system has resulted in an "uncoordinated, 83-county patchwork quilt" of public defense systems.

**FINDING:** Michigan's current public defense system too often makes errors, and at its worst, results in the innocent being convicted while the guilty are left free.

**FINDING:** Money is currently spent at the county level with no data or transparency to show if those taxpayer dollars are being spent effectively or efficiently. This problem exposes Michigan taxpayers to millions of dollars in unnecessary expense, wasteful spending and government inefficiencies.

**FINDING:** There are no statewide standards to either define or ensure constitutionally adequate defense counsel for residents unable to afford an attorney.

## What did the Commission recommend?

**RECOMMENDATION:** Michigan should create a system that requires and ensures "full, consistent and statewide implementation of minimum standards and adequate funding is authorized by the Legislature for that system."

**RECOMMENDATION:** A new, permanent and independent commission is needed to establish and enforce statewide standards for providing trial-level indigent defense services.



## What would the Michigan Indigent Defense Commission Act do?

**REFORM:** Create a permanent commission on indigent defense within the judicial branch of state government made up of individuals named by the Governor, legislative leaders and the Supreme Court and representing interests throughout the criminal justice system.

**REFORM:** Collect needed data to ensure transparent and effective use of tax dollars.

**REFORM:** Maintain Michigan's tradition of providing public defense services through our counties, while applying principles statewide to ensure all counties meet constitutional standards.

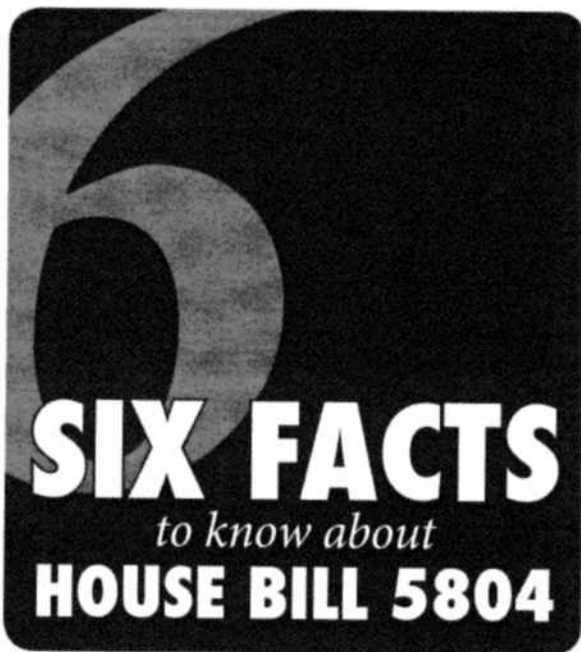
**REFORM:** Give the commission the responsibility to establish and enforce minimum statewide standards to meet Michigan's constitutional duty to provide effective assistance of counsel to residents unable to afford an attorney.

**REFORM:** Base statewide standards on the American Bar Association's widely accepted "10 Principles for an Effective Public Defense."

**REFORM:** Charge the commission with establishing methods of measuring performance in providing public defense services.

## Reforming Michigan's Public Defense System

■ Ensuring Public's Safety ■ Protecting Taxpayers ■ Upholding the Constitution



## *The Indigent Defense Reform Act*

**1 FACT — House Bill 5804 applies statewide standards to Michigan's historic system of local control and provision of indigent defense services.**

Under the Michigan Constitution and the United States Constitution, the State is ultimately responsible for providing effective indigent defense. The legislation creates a permanent state commission with experts appointed by the Governor and the Legislature. The Commission's job is to establish basic statewide standards for effectiveness and make recommendations to ensure county systems have the resources necessary to meet every citizen's constitutional rights.

**2 FACT — The financial and moral cost of a broken system is too high.**

Defense services for people who cannot afford an attorney are critically important to make sure the right people are convicted and sentenced appropriately, helping to keep our streets safe and the innocent free. Ineffective indigent defense services take a financial toll when those wrongfully convicted seek new trials and compensation; affect safety and security when the real perpetrator is still on the streets to commit more crime; and take a human toll when innocent people lose their freedom.

**3 FACT — We are already paying for a broken system.**

Tens of millions of dollars are currently being spent for an indigent defense that has no common and reliable standards, transparency or oversight. The estimated cost of a permanent commission (around \$1 million) is necessary to identify effective systems and advise lawmakers on how current resources are being spent and ways in which that money can be used to create a system that passes constitutional muster, as well as find areas in need of additional state resources.

**4 FACT — Michigan's patchwork system does not include a single county that consistently meets all 10 constitutionally-based national standards for an effective public defense system.**

Some counties do a better job than others in providing local public defense services and for those counties that are meeting the American Bar Association standards, few changes, if any, would be required as a result of House Bill 5804.

**5 FACT — The Constitutional obligation for indigent defense services rests on the State.**

Michigan has abdicated its duty for too long, forcing counties to do the job with little direction and inadequate resources. Like other parts of our state judicial system, Michigan's public defense system should ideally be a partnership between the state and the counties, respecting local systems and decision-makers while applying basic statewide standards so the rights of Michigan residents are protected regardless of where they live.

**6 FACT — House Bill 5804 provides a balance in the justice system so that all defendants have consistent and reliable representation.**

Defense attorneys and prosecutors will have additional tools and resources to better represent their clients, while establishing statewide standards to ensure all attorneys working in our public defense system have a level playing field and are adequately trained, qualified and effective.